

**Before the
Education Audit Appeals Panel
State of California**

In the Matter of the
Statement of Issues Against:

Big Valley Joint Unified
School District,

Respondent.

EAAP Case No.: 03-13
OAH No.: N2003120274

Decision

The Education Audit Appeals Panel adopts the attached Stipulation and Proposed Decision of the parties as its Decision in the above-entitled matter.

This Decision shall become effective on 26 April 2004.

It is so Ordered 26 April 2004.



Thomas E. Dithridge, Chairperson
For Education Audit Appeals Panel

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Stipulation and Proposed Decision

The State Controller's Office (SCO), the Department of Finance (DOF), and the Big Valley Joint Unified School District (Big Valley), who are all of the parties in this action, hereby agree to a complete resolution of this matter as follows:

Recitals

A. The firm of Stephen Roatch Accountancy Corporation, Certified Public Accountants (Roatch), the independent auditor, conducted an audit of Big Valley for the fiscal year ending on June 30, 2002.

B. In its report of the Big Valley audit dated October 17, 2002, (pages 54 and 55, later revised on September 27, 2003, and certified by SCO on September 30, 2003), Roatch included a finding regarding Instructional Time (Finding 02-1/40000). The report stated that Big Valley did not offer at least as many instructional minutes as were offered during the 1982-83 school year, for one or more grade spans, in every fiscal year since 1985-86.

C. The Big Valley audit report further noted that, since fiscal year 1985-86, Big Valley's instructional minutes which were below the 1982-83 base year requirements, had been documented in 11 audit reports prepared by four different independent audit firms, and that each of those audit reports was desk reviewed and approved by the State Controller's Office.

- D. None of the prior audit reports contained a finding that Big Valley failed to comply with Education Code Section 46202 for audit years 1985-86 through 2000-01.
- E. The Big Valley audit report for fiscal year 2001-02 recommended that the district modify its bell schedules and school calendars to ensure that the appropriate numbers of instructional minutes would be offered for fiscal year 2002-03 and following.
- F. Big Valley modified its bell schedules and school calendars and came into compliance for fiscal year 2002-03.
- G. As determined by the California Department of Education, Big Valley's statutory penalty for failure to meet the maintenance of effort requirements for fiscal year 2001-02 totals \$47,326.56 (\$19,745.24 for grades 1-3, and \$27,581.32 for grades 9-12). The total penalty for all fiscal years for all affected grade levels from and including 1985-86 through 2001-02 is \$579,880.58.
- H. The relevant statute in this appeal is California Education Code Section 46202.
- I. Big Valley timely appealed Finding 02-1/40000 to the Education Audit Appeals Panel on December 5, 2003.
- J. On motion from Big Valley, the hearing set for February 23, 2004, before the Office of Administrative Hearings was continued and is now set for November 3, 2004.
- K. DOF timely intervened on February 26, 2004.

Agreement


- A. For the sole purpose of effecting a stipulated resolution of this action, and based upon the fact that there were no findings as to Big Valley's noncompliance with Education Code Section 46202 in the applicable audit reports for years 1985-86 through 2000-01, the SCO, DOF, and Big Valley agree that Big Valley shall not be held accountable for such omission.

B. The parties agree that upon Big Valley's payment of \$57,988.00, DOF and SCO will release all claims relating to penalties for failure to comply with Education Code Section 46202 in fiscal years 1985-86 through 2001-02.

C. Big Valley agrees to withdraw, with prejudice, its appeal of Finding 02-1/40000.

Dated: 4/23/04

Office of the State Controller

By: 
Carol L. Noreen
Attorney for Steve Westly,
State Controller

Department of Finance

Dated: _____

By: _____
Julie Weng-Gutierrez
Deputy Attorney General
Attorney for Department of Finance

Big Valley Joint Unified School District

Dated: _____

By: _____
Bob Larkins, Superintendent

Dated: _____

By: _____
Erin V. Peth
Olson, Hagel & Fishburn, LLP
Attorneys for Big Valley Joint Unified
School District

B. The parties agree that upon Big Valley's payment of \$57,988.00, DOF and SCO will release all claims relating to penalties for failure to comply with Education Code Section 46202 in fiscal years 1985-86 through 2001-02.

C. Big Valley agrees to withdraw, with prejudice, its appeal of Finding 02-1/40000.

Office of the State Controller

Dated: _____

By: _____
Carol L. Noreen
Attorney for Steve Westly,
State Controller

Department of Finance

Dated: 4-22-04

By: _____
Julie Weng-Gutierrez
Deputy Attorney General
Attorney for Department of Finance

Big Valley Joint Unified School District

Dated: _____

By: _____
Bob Larkins, Superintendent

Dated: _____

By: _____
Erin V. Peth
Olson, Hagel & Fishburn, LLP
Attorneys for Big Valley Joint Unified
School District

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B. The parties agree that upon Big Valley's payment of \$57,988.00, DOF and SCO will release all claims relating to penalties for failure to comply with Education Code Section 46202 in fiscal years 1985-86 through 2001-02.

C. Big Valley agrees to withdraw, with prejudice, its appeal of Finding 02-1/40000.

Office of the State Controller

Dated: _____

By: _____
Carol L. Noreen
Attorney for Steve Westly,
State Controller

Department of Finance

Dated: _____

By: _____
Julie Weng-Gutierrez
Deputy Attorney General
Attorney for Department of Finance

Big Valley Joint Unified School District

Dated: 4/22/04

By: Bob Larkins
Bob Larkins, Superintendent

Dated: April 23, 2004

By: Eria V. Peth
Eria V. Peth
Olson, Hagel & Fishburn, LLP
Attorneys for Big Valley Joint Unified
School District